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In re Application of	:	
BECHER, Reinhard, et al.	:	
U.S. Application No.: 09/744,594	:	DECISION ON REQUEST
PCT No.: PCT/DE99/02346	:	FOR RECONSIDERATION
International Filing Date: 29 July 1999	:	
Priority Date: 29 July 1998	:	
Attorney's Docket No.: 449122001300	:	
For: TRANSMISSION OF DIALOGUE	:	
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This decision is issued in response to the "Request For Reconsideration Of Decision On Request For Re-Mailing Of Action And Request For Refund" filed on 18 October 2001. No petition fee is required.

### **BACKGROUND**

The procedural background for this application is set forth in detail in the decision mailed by this Office on 18 September 2001. In that decision, applicants' "Request for Re-Mailing" was dismissed for failure to satisfy all the requirements of a grantable petition showing the failure to receive an Office communication. That decision also dismissed applicants' "Request For Refund" because it was premised on the granting of the "Request For Re-Mailing."

On 18 October 2001, applicants filed the "Request For Reconsideration Of Decision On Request For Re-Mailing Of Action And Request For Refund" considered herein.

### **DISCUSSION**

#### **A. Reconsideration Of Petition Showing Non-Receipt Of Office Communication**

The 18 September 2001 decision stated that applicants had failed to submit the requirements of MPEP §711.03(c). Specifically, applicants had failed to provide the required statement that "a search of the file jacket and docket records indicates that the [Notification Of Missing Requirements] was not received" or the required docket records.

The present submission includes the required statement, and it is accompanied by a copy of counsel's docket records for 12 March 2001, the date on which a response to the Notification Of Missing Requirements would have been required had the Notification been received.

Applicants have now satisfied all the requirements for a grantable petition. Accordingly, applicants' assertion that the Notification Of Missing Requirements mailed 12 February 2001 was not received is accepted.

**B. Request For Refund**

Based on the above, applicants are considered not to have received the Notification Of Missing Requirements. Accordingly, applicants' 10 August 2001 submission of an executed declaration in compliance with 37 CFR 1.497 and the \$130 surcharge for filing the declaration after the thirty month deadline therefore did not require an extension of time in order to be considered timely. Applicants request for a refund of the fee for a five month extension of time paid by applicants on 10 August 2001 is therefore appropriately granted.

**CONCLUSION**

Applicants' "Request For Reconsideration Of Decision On Request For Re-Mailing Of Action And Request For Refund" is **GRANTED**.

Applicants assertion that the Notification Of Missing Requirements mailed 12 February 2001 was not received is accepted.

Deposit Account No. 03-1952 will be refunded the \$1,890 fee payment previously submitted for the extension of time to respond to the Notification Of Missing Requirements.

This application is being returned to the National Stage Processing Branch of the Office Of PCT Operations for further processing. The 35 U.S.C. 371 date is 10 August 2001.



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